



Montoya, Darlene <dmontoya@nmag.gov>

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## RE: Request for Policies and Procedures Related to Officer-Involved Shooting and Other Use-of-Force Incidents

5 messages

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**Montoya, Darlene** <dmontoya@nmag.gov>  
To: dsmith@redriver.org

Thu, Jan 19, 2017 at 11:50 AM

Chief Smith:

Attached please find correspondence from the Law Enforcement Academy Board Subcommittee regarding the above-referenced matter. Please forward via email the requested information. If you have any questions or concerns, please do not hesitate to contact me at my direct line below.

Thank you and have a good day. Stay safe.

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Darlene Montoya, Administrator  
New Mexico Attorney General's Office  
408 Galisteo Street  
Santa Fe, New Mexico 87501  
[\(505\) 490-4854](tel:5054904854)



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69K

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**David Smith** <dsmith@redriver.org>  
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Thu, Jan 19, 2017 at 12:17 PM

Hi Darlene. I'll have that to you in just a bit.  
[Quoted text hidden]

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**David Smith, Marshal**

**Red River Marshal's Office**  
**P.O. Box 410**  
**Red River, NM 87558**  
**575-754-6166 Office**  
**575-754-2306 Fax**

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**Montoya, Darlene** <dmontoya@nmag.gov>  
To: David Smith <dsmith@redriver.org>

Thu, Jan 19, 2017 at 12:23 PM

Thank you so much Chief Smith for the quick response.  
[Quoted text hidden]

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**David Smith** <dsmith@redriver.org>  
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Thu, Jan 19, 2017 at 12:35 PM

Please see the attached file. If you have any questions please don't hesitate to contact me.

Thanks for all you do.

David

[Quoted text hidden]



**UseOfForce-RRMO.pdf**  
252K

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**Montoya, Darlene** <dmontoya@nmag.gov>  
To: David Smith <dsmith@redriver.org>

Thu, Jan 19, 2017 at 12:37 PM

Thanks again Chief Smith. Thank you and all law enforcement for what you do. Stay safe.

[Quoted text hidden]



## TOWN OF RED RIVER

### MARSHAL'S OFFICE

P.O. Box 410, Red River, New Mexico 87558

(575)754-6166

January 19, 2017

Darlene Montoya  
NMDPS  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508

Subject: Use of Force Policy – Red River Marshal's Office

I am in receipt of your request for the RRMO policy regarding use of force/deadly force. Please see the attached policy for compliance to your request. In addition, you had asked for specific information regarding the review and training of these policies.

The policy was reviewed and became effective January 4, 2013. I plan on reviewing the entire policy manual every four years or as needed when indicated or required by events. The policy is reviewed by each officer every two years in conjunction with the state's biennium training policy and is included in at least one of the firearms training sessions during that biennium.

Please let me know if you require any additional information.

Respectfully submitted,

David Smith  
Marshal, Red River Marshal's Office

cc Georgiana Rael, Town Manager  
Linda Calhoun, Mayor

<b>RED RIVER MARSHAL'S OFFICE</b>	<b>ADMINISTRATION</b>
<b>SUBJECT:</b> <i>Use of Force</i>	<b>NUMBER:</b> <i>ADM.05.01</i>
<b>EFFECTIVE DATE:</b> <i>1/4/2013</i>	<b>REVIEW DATE:</b>
<b>AMENDS/SUPERSEDES:</b>	<b>APPROVED:</b> <b>David Smith</b> <b>Town Marshal</b>
<b>NMMLEPSC STANDARDS:</b> <i>ADM.05.01 – ADM.05.04</i>	<b>NMSA:</b>

## I. STATEMENT OF PURPOSE

The use of force by a police officer is an extremely sensitive issue and requires careful study and understanding by every officer. This is especially true since the definitions of the use of force by police are based on the determination of reasonableness under the circumstances. Although the careful use of force is authorized by law, the use of unnecessary or unreasonable force is strictly prohibited and will not be tolerated. While clear boundaries of reasonableness can be defined for certain police situations, others must be interpreted for the particular set of circumstances involved. The purpose of this section is to provide each officer with policy guidance and direction with respect to the use of force in carrying out his duties.

## II. DEFINITIONS



- A. **Deadly Force** - Force that is intended or known by the person using the force to cause, or in the manner of its use or its intended use, is capable of causing death or serious bodily injury.
- B. **Reasonable Belief** - A belief that would be held by a reasonable and prudent law enforcement officer in the same circumstances as the acting person.
- C. **Reasonable Force** - Use of the reasonable amount of force needed to achieve control over an incident or person.
- D. **Serious Bodily Injury** - Injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of a bodily member or organ.

## III. GENERAL POLICY

- A. Reasonable force may be used by an officer in the performance of duties, when:
  - 1. Necessary to preserve the peace, to prevent the commission of an offense or to prevent suicide or self-inflicted injury.
  - 2. Making lawful arrests and searches, overcoming resistance to such arrests and searches, and preventing escapes from custody.
  - 3. In self-defense or defense of another against unlawful violence to a person or property.
  - 4. Preventing or interrupting an intrusion on or interference with the lawful possession of property.



- B. An officer may use reasonable force to overcome resistance to the lawful performance of duties, even though there is no immediate or apparent danger calling for self-defense. However, the officer must be acting within the scope of official authority. Every reasonable opportunity must be given to the person being arrested to comply. Force should be used only after all other means have failed to produce compliance.
- C. Before the application of reasonable force, officers should identify themselves as police officers and state their purpose to the offender and others present. This identification is not necessary if the officer reasonably believes his purpose and identity are already known or conditions exist which render it unfeasible to identify.
- D. There is no specific rule fitting all cases as to how much force and means may be used, each case must be decided in the light of its own facts and circumstances. Under no circumstances will the force used be greater than necessary and in no instance will deadly force be used except as stated in the Deadly Force section of this chapter.
- E. Officers will use only the force necessary to accomplish lawful objectives. Officers must exhaust every reasonable means of employing the least amount of force appropriate to the situation.
- F. The Reactive Control Model (RCM) is taught in the New Mexico Law Enforcement Academy and expected to be used by officers of this Marshal's Office to determine the appropriate course of action when interacting with a person(s) in a situation, which may require the use of force. (See RCM Continual)

<b>REACTIVE CONTROL MODEL™ (RCM)™</b>				
<b>SUBJECT BEHAVIOR:</b>	<b>COOPERATIVE</b>	<b>NON-COOPERATIVE</b>	<b>UNARMED ASSAULT</b>	<b>WEAPON ASSAULT</b>
<b>SUBJECT'S "BEHAVIORAL" CUES:</b>	Submits to Directions and Custody	Resists Custody By:	Resists Custody By:	Resists Custody By:
	<ul style="list-style-type: none"> <li>Compliant</li> <li>Responsive</li> <li>Following Directions</li> </ul>	<ul style="list-style-type: none"> <li>Not Responsive to Directions</li> <li>Evasive to Questions</li> <li>Verbal Resistance or Body Posture</li> <li>Pushing/Moving or Running Away</li> </ul>	UNARMED THREATENING UNARMED ATTACK Closes Distance	WEAPON THREATENING WEAPON ATTACK Closes Distance
<b>CRIMINAL ACTIVITY CUES:</b>	Unknown	Threat	Type of Criminal Activity Investigating	High Risk Activity
<b>OFFICER MENTAL CONDITION:</b>	<b>ALERT</b>	<b>CONTROL</b>	<b>ACTIVE</b>	<b>SURVIVAL</b>
<b>OFFICER'S ACTIONS:</b>	Verbal Directions	Verbal Persuasion	Verbal Commands	Verbal Commands
	<ul style="list-style-type: none"> <li>Authority</li> <li>Subduement</li> <li>Custody Grasp</li> <li>Positioning</li> <li>Physical Restraint</li> </ul>	<b>EMPTY HAND TECHNIQUES</b> <b>ASSESSMENT</b> <ul style="list-style-type: none"> <li>Custody Decision</li> <li>Close Distance</li> </ul> <b>CONTROL BY</b> <ul style="list-style-type: none"> <li>Escort Position</li> <li>Distraction Techniques</li> <li>Compliance Holds</li> <li>Leveraged Takedowns</li> <li>Impact Takedowns</li> <li>Chemical Agents</li> </ul>	<b>SHOW FORCE</b> <ul style="list-style-type: none"> <li>Open Baton</li> <li>Eye Spray</li> <li>Intermediate</li> <li>Verbal Aggression</li> <li>Gas</li> <li>Pepper Spray</li> <li>Stun Gun</li> </ul> <b>USE FORCE</b> <ul style="list-style-type: none"> <li>Use Baton</li> <li>Use Gun</li> <li>Intermediate</li> <li>Verbal Aggression</li> <li>Gas</li> <li>Pepper Spray</li> <li>Stun Gun</li> </ul>	<b>SHOW FORCE</b> <ul style="list-style-type: none"> <li>Open Baton</li> <li>Eye Spray</li> <li>Intermediate</li> <li>Verbal Aggression</li> <li>Gas</li> <li>Pepper Spray</li> <li>Stun Gun</li> </ul> <b>USE FORCE</b> <ul style="list-style-type: none"> <li>Use Baton</li> <li>Use Gun</li> <li>Intermediate</li> <li>Verbal Aggression</li> <li>Gas</li> <li>Pepper Spray</li> <li>Stun Gun</li> </ul>
<b>P R E S E N C E</b>	<b>SUBJECTS TO CUSTODY</b>	<b>FORCED CUSTODY</b>	<b>CONTROL</b>	<b>CONTROL</b>

#### IV. REPORTING PROCEDURES.

A. A written use of force report will be submitted whenever an employee:

1. discharges a firearm, for other than training or recreational purposes;
2. takes an action that results in, or is alleged to have resulted in, injury or death of another person;
3. applies force through the use of lethal or less-lethal weapons; or
4. uses any equipment applying force (spike system, riot gear, fire equipment etc.)

In any incident where a use of force is used, officer(s) shall document the incident in a report. The report will include a detailed description of the events leading to the necessity for the use of force; the amount and type of force used; the nature and extent of injuries, if any, and treatment rendered; identity of individuals involved and other pertinent information.

B. Non-injury Use of Force

The use of Defensive Tactics frequently achieves the desired results without injury to any parties. However, documentation of such incidents is required. This documentation will normally be sufficiently covered in any report prepared as a result of the event. This account will include all circumstances that led to the use of a tactic and its actual use. The Town Marshal will ensure that the events are presented fully, in a clear and accurate manner.

C. Personal Injury Incidents

Photographs of the injuries will be taken, if possible, and included with any reports. This applies to both officers and/or suspects.

D. Medical Aid to Injured Parties

When a person is injured because of an officer's use of force, the officer shall notify the Town Marshal and seek medical treatment for the injured person.

E. Routing of Paperwork

Anytime an incident involves the use of force, the reports will be reviewed by a supervisor within 24 hours and then routed through the chain of command. When a supervisor believes there may have been an inappropriate use of force, he/she will provide the Town Marshal with a written explanation as to why the use of force was inappropriate.

## V. LESS-LETHAL FORCE

### A. Defensive Tactics

In order to provide members of this Marshal's Office with information, the training coordinator will schedule periodic training sessions, which enable officers to learn and exercise acceptable methods of defensive tactics. Officers may use defensive tactics that they have been trained in and are qualified to use.

### B. Police ASP Baton

1. The Marshal's Office issued ASP baton may be used if a suspect has escalated to using threatening statements and/or gestures and begins to close the distance on the officer or another person in a threatening manner as if to batter them.
2. The ASP baton is not designed to be used as a club or bludgeon. Strikes should target areas of the body, which may result in compliance by the suspect or allow the officer to gain control.
3. Strikes to parts of the body (head, neck, spine, groin, or clavicle) capable of inflicting death or serious bodily injury shall be avoided unless justified by the guidelines of the Deadly Force section of this chapter.

### C. OC Spray

OC Spray (pepper spray) plays a distinct and viable role in the continuum of force options and gives the individual officer an alternative to hard empty hand techniques and the use of an impact weapon, ASP.

1. Use of OC Spray or Pepper Spray
  - a. The OC spray may be used on a suspect who is non-cooperative and is resisting the efforts to control him by but not necessarily limited to the following actions:
    1. suspect not responsive to directions.
    2. verbal resistance or body posture
    3. pulling/moving running away
    4. aggressive movements and an escalation of resistive force.

- b. The OC spray may be used if a suspect has escalated to using threatening statements and begins to close distance on the officer or another person in a manner as if to batter them.
- c. The use of OC spray is target specific and should result in the officer's ability to gain control of the suspect.
- d. The target area will consist of the face, specifically the eyes.

## 2. Decontamination

- a. Decontamination begins after the suspect has been restrained with handcuffs or by other means and the suspect's resistance has ceased.
- b. Decontamination should begin in a reasonable time frame and officer safety concerns should be taken into consideration.
- c. Expose suspect to fresh air and flush affected area with water or by using approved decontamination wipes provided by the Marshal's office.
- d. Call medical personnel (EMS) to perform a cursory check of the suspect, to remove any contact lenses if necessary and to continue flushing the suspect with water.
- e. Once the suspect has been transported to the detention facility, the on duty detention facility personnel shall be notified that the suspect has been sprayed with OC.
- f. Under no circumstances will any creams, salves, or oils be applied to the affected area that have not been approved by the Marshal's Office.

## 3. Reporting

- a. As with any use of force or application of force, a written report will be submitted detailing the use of the OC/Pepper spray, decontamination procedures and the events leading to the use of the OC/Pepper spray.
- b. Anytime the OC/Pepper spray is used, the approving supervisor will be responsible for ensuring that a copy of the report is forwarded up the chain of command.

- 4. 12 gauge Bean-Bag rounds, rubber buckshot or rubber slugs are not to be used on anything other than for animal control.



5. "Electro Muscular Control Devise" Tasers or Stun guns.
  - a. The Marshal's Office issued Taser or Stun gun may be used by Marshal's Office personnel after proper training and/or certification and in compliance with the guidelines of Taser International and/or the New Mexico DPS Training Academy.
  - b. Stun guns are to be used only as a measure to gain control of an unarmed suspect that resists custody. Tasers may be deployed at the same level of resistance as one would show or use chemical agents, batons, or other intermediate weapons.

## VI. DEADLY FORCE

### A. Authorized Use of Deadly Force

1. Deadly force may be used only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury.
2. An officer may use deadly force:

When the suspect is intent on immediately endangering human life or immediately inflicting serious bodily injury unless apprehended without delay. The officer must reasonably believe that the suspect is armed or has the means to inflict death or serious bodily injury by way of:

  - a. Ability (Weapon)
  - b. Opportunity (Distance)
  - c. Immediate Jeopardy (Officer's life or someone else's life is in immediate jeopardy)
  - d. Fleeing felons (must meet the a, b, & c above)
3. Prohibited uses of deadly force:
  - a. Officers shall not unreasonably or unnecessarily endanger themselves or the public in applying deadly force pursuant to this policy or state law.
  - b. An officer shall not rely solely on third party reports as a basis for use of Deadly Force, without firsthand knowledge of an alleged offense.

- c. An officer shall not use deadly force in situations that would not be in accordance with New Mexico State Statutes.
  - d. In an attempt to apprehend fleeing felons or escapees whom are not placing the officer or another person in immediate danger of death or immediate serious bodily injury.
- 4. All officers shall be provided with and be familiar with all provisions of the New Mexico State Statutes and this directive governing the legal use of Deadly Force.

## **B. Warning Shots are prohibited.**

### **VII. ADMINISTRATIVE DUTY**

- A. Immediately following an officer's involvement in an incident involving serious injury or death the officer will be automatically placed on administrative duty 1/4/2013 a review by the Town Marshal on the next normal workday. Unless the duty status is changed to a suspension status by the Town Marshal, the officer shall remain in an administrative duty status until such time as the matter is resolved legally and administratively.
- B. Assignment to administrative duty is non-disciplinary with no loss of pay or benefits. This duty is designed to:
  - 1. address the personal and emotional needs of the officer involved in the use of deadly force and,
  - 2. insure the community that the facts surrounding the case are fully and professionally investigated.
- C. An officer placed on administrative duty will be assigned to office duty in civilian clothes.
- D. The officer may be placed on administrative leave instead of administrative duty at the discretion of the Town Marshal. Assignment to administrative leave is non-disciplinary with no loss of pay or benefits.
- E. An officer on administrative leave shall insure his/her availability to investigators until the investigation has been concluded.
- F. Officers on administrative duty or leave are authorized to carry an approved firearm, unless otherwise directed by the Town Marshal. Officers shall not work off-duty police related jobs and should not enforce laws and make arrests except in emergency situations as assigned by the Town Marshal.

- G. An officer whose action results in a deadly force incident will be required to counsel with the Marshal's Office appointed counselor. The counselor must make written notification that the officer is fit for duty before the officer returns to duty.
- H. The Marshal's Office will make available and reserve the right to require counseling for officers who had involvement in a deadly force incident.

## VII. INCIDENTS OF FORCE REVIEW

- A. If a use of force reasonably indicates a possible violation of policy or other inappropriate conduct, the immediate or any other supervisor will refer the matter directly to the Town Marshal.
- B. Referrals to the Town Marshal will be automatic and take place immediately anytime there is a firearm discharge (except during scheduled firearms training or in the event of putting down an animal.)
- C. The Town Marshal will be responsible for ensuring that all use of force data from all reports are regularly and accurately compiled, analyzed and reviewed.
- D. The Administrative Staff will
  - 1. Analyze use of force data on a quarterly, cumulative basis to detect trends;
  - 2. Have compiled in writing and review use of force incident by officer and type of force used and
  - 3. Review the data for the purpose of identifying and acting upon their implications for policy and training designed to ensure that officers are using only appropriate types and amounts of force.

## IX. TRAINING

- A. Annual training will be conducted to instruct officers in the Use-Of-Force policy. This instruction will be documented.
- B. Copies of this policy will be issued to each officer, before being authorized to carry a weapon, and will be updated as needed. This issuance and instruction will be documented.